

EN BANC

[G.R. No. 175803, December 04, 2009]

**GOVERNOR ORLANDO A. FUA, JR.,* IN REPRESENTATION OF THE
PROVINCIAL GOVERNMENT OF SIKUIJOR AND ALL ITS
OFFICIALS AND EMPLOYEES PETITIONERS, VS. THE
COMMISSION ON AUDIT AND ELIZABETH S. ZOSA, DIRECTOR IV,
LEGAL AND ADJUDICATION OFFICE-LOCAL COMMISSION OF
AUDIT, QUEZON CTY, PHILIPPINES, RESPONDENTS.**

D E C I S I O N

PERALTA, J.:

This resolves the Petition for *Certiorari*, under Rule 64 in relation to Rule 65 of the Rules of Court, praying that the Decision^[1] of the Commission on Audit (COA) dated October 19, 2006, denying petitioner's appeal, be declared null and void.

The undisputed facts, as gathered from the records, are as follows.

On November 14, 2003, the *Sangguniang Panlalawigan* of the Province of Siquijor adopted Resolution No. 2003-247 segregating the sum of P8,600,000.00 as payment for the grant of extra Christmas bonus at P20,000.00 each to all its officials and employees. On the same date, corresponding Appropriation Ordinance No. 029 was passed.

Thereafter, Resolution No. 2003-239 was adopted requesting President Gloria Macapagal Arroyo for an authority to the Provincial Government of Siquijor to grant such bonus. On even date, petitioner wrote a letter to the President reiterating said request. On said letter, the President then wrote a marginal note reading, *NO OBJECTION*.

The provincial government, relying on the aforementioned resolutions and the President's marginal note, then proceeded to release the extra Christmas bonus to its officials and employees. However, a post-audit was conducted by Ms. Eufemia C. Jaugan, Audit Team Leader (ATL), Province of Siquijor, and thereafter, she issued Audit Observation Memorandum (AOM) Nos. 2004-011 and 2004-022, dated June 28, 2004 and October 27, 2004, respectively. In AOM Nos. 2004-011 and 2004-022, Ms. Jaugan questioned the legality of the payment of said bonuses, citing Section 4.1 of Budget Circular No. 2003-7 dated December 5, 2003, limiting the grant of Extra Christmas Bonus to P5,000.00, and Section 325 (a) of the Local Government Code imposing a 55% limitation on Personal Services expenditures.

AOM Nos. 2004-011 and 2004-022 were then reviewed by Atty. Roy L. Ursal, Regional Cluster Director, Legal and Adjudication Sector, Commission on Audit Region VII. Atty. Ursal disallowed the payments and issued Notices of Disallowance Nos. 2004-001-100 (2003) L3-05-164-00-018-A and 2004-002-100 (2003) L3-05-

164-00-019-A, both dated October 28, 2005 in the total amount of P6,345,000.00 on the following grounds:

1. Violation of item 8.0 of Budget Circular No. 2002-A dated November 28, 2002 on the prohibition of any increase in compensation not in accordance with the Salary Standardization Law (SSL) and the grant of other additional incentives, bonuses, cash gifts and similar benefits outside of those authorized in said Circular and Republic Act (R.A.) No. 6686, without the prior approval of the President. The President's marginal note of "*No Objection*" cannot be considered an approval.
2. Based on the computation submitted by the Provincial Budget Officer for the Province of Siquijor, Personal Services of the local government unit has exceeded the limitation for Budget Year 2003.

Petitioner filed a motion for reconsideration dated October 28, 2005, but in the 1st Indorsement dated February 1, 2006, the same was denied by the Regional Cluster Director.

From said denial, petitioner appealed to the Commission on Audit-Legal and Adjudication Office (COA-LAO-Local), headed by respondent Director IV, Elizabeth S. Zosa. Petitioner raised the issues of (1) whether the President's marginal note of *No Objection* on the letter-request of Gov. Orlando B. Fua to grant extra Christmas bonus to the provincial government's employees should be a ground to lift the disallowance, and (2) whether the Province, in granting the extra Christmas bonus, has complied with the 55% Personal Service limitation under Section 325 of the Local Government Code.

On October 19, 2006, the COA-LAO-Local issued a Decision affirming the Regional Cluster Director's Notice of Disallowance, the dispositive portion of which reads thus:

WHEREFORE, premises considered, the herein appeal is hereby denied for lack of merit and the disallowance is affirmed in the total amount of P6,345,000.00.^[2]

Aggrieved by the foregoing Decision of the COA-LAO-Local, petitioner filed the present petition alleging that:

THE COMMISSION ON AUDIT COMMITTED GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN RULING FOR THE DISALLOWANCE OF P6,345,000.00 PURSUANT TO ADMINISTRATIVE ORDER NO. 88 AND DISREGARDING THE CONSENT OF THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES TO THE GIVING OF EXTRA BONUS.^[3]

Respondents, on the other hand, argued that the petition should not be given due

course because of petitioner's failure to observe the doctrine of exhaustion of administrative remedies.^[4] Moreover, respondents emphasized that the marginal note allegedly written by the President stating *No Objection* had never been authenticated and was effectively revoked by Budget Circular No. 2003-7 and Administrative Circular No. 88, limiting extra cash-gift to all government and local government personnel to P5,000.00 only.^[5]

Petitioner counters that the present case should be deemed an exception to the above-mentioned general rule, because the issue raised here is a purely legal one.^[6]

The petition is doomed to fail.

The 1997 Revised Rules of Procedure of the COA states, thus:

RULE VI
APPEAL FROM DIRECTOR TO COMMISSION PROPER

Section 1. ***Who May Appeal and Where to Appeal.*** - The party aggrieved by a final order or decision of the Director may appeal to the Commission Proper.

RULE XI
JUDICIAL REVIEW

Section 1. ***Petition for Certiorari.*** - Any decision, order or resolution of the Commission may be brought to the Supreme Court on *certiorari* by the aggrieved party within thirty (30) days from receipt of a copy thereof in the manner provided by law, the Rules of Court and these Rules.

Clearly, by immediately filing the present petition for *certiorari*, petitioner failed to exhaust the administrative remedies available to him. The hornbook doctrine, reiterated in *Joseph Peter Sison, et al. v. Rogelio Tablang, etc.*,^[7] is as follows:

The general rule is that before a party may seek the intervention of the court, he should first avail himself of all the means afforded him by administrative processes. **The issues which administrative agencies are authorized to decide should not be summarily taken from them and submitted to the court without first giving such administrative agency the opportunity to dispose of the same after due deliberation.**

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x x x The non-observance of the doctrine results in the petition having no cause of action, thus, justifying its dismissal. **In this case, the necessary consequence of the failure to exhaust administrative remedies is obvious: the disallowance as ruled by the LAO-C has now become final and executory.**^[8]